

**Despite Increased Accountability,
Improved Control Is Needed
Over Union Time**

July 2003

Reference Number: 2003-10-154

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

July 31, 2003

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

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FROM: Gordon C. Milbourn III
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Corporate Programs)

SUBJECT: Final Audit Report - Despite Increased Accountability, Improved
Control Is Needed Over Union Time (Audit # 200210034)

This report presents the results of our review of the use of official time for National Treasury Employees Union (NTEU, also referred to as Union) activities. The overall objective of this review was to determine whether there are adequate controls over the use of official time for NTEU activities. This review was initiated at the request of Senator Charles Grassley, Chairman of the Senate Finance Committee.

In summary, the Internal Revenue Service (IRS) does not track the overall cost of Union activities for monitoring and reporting purposes. The IRS provided adequate direction and guidance on the new procedures for monitoring Union time; however, access to the Union time system was not available to certain personnel who need to be able to update, correct, or monitor information. Some Union time was not reported to the Department of the Treasury.

There are disagreements between the IRS and the NTEU over the number of full-time Union stewards that are justified, and there has been a significant delay in the completion of some Official Time Utilization Plans. The criteria for the overall number of stewards authorized per chapter appears to be more than needed in certain instances and should be adjusted. Limits have been established for bank time;¹ however, there is no indication that the limits have reduced the number of bank time hours used.

We recommended that the IRS keep better track of the costs associated with Union activities for monitoring and reporting. The IRS should allow access to the Union timekeeping system, with appropriate levels of permission, by personnel who need to update, correct, or monitor information. These personnel should also periodically verify the accuracy of the data in the system. We also recommended that the IRS include all

¹ Duty hours that NTEU representatives can charge for Union activities not conducted in the presence of management, such as preparing grievances or preparing for arbitration.

Union time in its reports to the Department of the Treasury, including time charged by separated employees, and time charged by non-stewards who are performing Union activities such as partnering. In addition, the IRS should establish time periods for the resolution of the disagreements over the full-time status of Union representatives and the submission of the remaining Official Time Utilization Plans, and monitor the resolution process to ensure completion within the prescribed time periods. Finally, we recommended that more reasonable criteria be established for the number of Union stewards authorized to assist in future negotiations and agreements with the Union.

Management's Response: IRS management agreed with our findings and recommendations to improve the controls over the system used to account for the Union's use of official time, and to increase management's focus on the costs of the time and services provided to the Union. Specifically, costs for the Union's use of official time, travel, and office space will be tracked. Official Time Coordinators will have access to the official time tracking system, and they will periodically verify the accuracy of the data in the system. The IRS will modify its tracking system so that time charged by separated employees is reported, and will also report the time charged by non-stewards performing Union activities.

Management did not establish time periods for the completion of the remaining Official Time Utilization plans because it would require the agreement of the NTEU. Instead, management will advise the Official Time Coordinators to invoke an impasse resolution process if agreement cannot be reached. Management also stated that the criteria for determining the number of Union stewards cannot be negotiated with the NTEU until the midterm "reopener" of the National Agreement. Management's complete response to the draft report is included as Appendix IV.

Office of Audit Comment: In addition to the IRS' proposed corrective actions, we believe that management should also establish deadlines to invoke the impasse resolution process when there are delays in reaching agreement on the Official Time Utilization Plans.

Copies of this report are also being sent to IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have any questions or Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

**Despite Increased Accountability, Improved
Control Is Needed Over Union Time**

Table of Contents

Background	Page 1
The Cost of Union Activities Is Not Tracked.	Page 3
<u>Recommendation 1:</u>	Page 5
The Internal Revenue Service Provided Adequate Direction and Guidance on the New Procedures for Monitoring Union Time	Page 6
Providing Appropriate Access Would Improve the Union Time Tracking System Controls.....	Page 7
<u>Recommendations 2 and 3:</u>	Page 9
Certain Union Time Was Not Included in Summary Reports to the Department of the Treasury	Page 9
<u>Recommendations 4 and 5:</u>	Page 10
The Internal Revenue Service and the National Treasury Employees Union Disagree on the Number of Authorized Full-Time Union Representatives	Page 11
<u>Recommendation 6:</u>	Page 12
Adjustments Should Be Made to the Criteria for Authorizing Union Stewards for Small Posts-of-Duty	Page 13
<u>Recommendation 7:</u>	Page 15
Bank Hour Limitations Have Not Reduced the Number of Bank Hours Reported	Page 15
Appendix I – Detailed Objective, Scope, and Methodology	Page 18
Appendix II – Major Contributors to This Report.....	Page 20
Appendix III – Report Distribution List	Page 21
Appendix IV – Management’s Response to the Draft Report	Page 22

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Background

The National Treasury Employees Union (NTEU) (henceforth also referred to as Union) represents Internal Revenue Service (IRS) bargaining unit employees. Most NTEU representatives are IRS employees who spend some of their regular duty time conducting Union activities. Federal Labor law authorizes union representatives to conduct union activities during official duty hours.¹ Pursuant to the National Agreement, NTEU representatives charge duty hours for Union activities to the following time categories:

Official time – for activities where the Union representative is in the presence of management.

Bank time – for Union activities not conducted in the presence of management, such as preparing grievances or preparing for arbitration.

This audit was initiated at the request of Senator Charles Grassley, Chairman of the Senate Finance Committee. Senator Grassley requested that we evaluate the adequacy and accuracy of the IRS system for tracking the use of official time for Union activities. He also requested that we evaluate whether adequate guidance was provided for managers on approving the use of official time and whether cost estimates associated with the use of official time contain all related costs, such as overhead and employee benefits. In response to this request, we reviewed information in the National Agreement between the Union and the IRS related to use of official time. We also evaluated the tracking system for official Union time at the IRS, the dissemination of guidance to managers, the controls over the use of official time, and the policies for tracking costs of Union activities.

On October 1, 2001, the IRS modified its existing Single Entry Time Reporting (SETR) System to capture time charged to Union activities. The SETR, part of the Totally Automated Personnel System, is the system through which all time and attendance is reported. The modification added time codes to use for Union activity and the NTEU/Labor

¹ 5 U.S.C. § 7131 (2000).

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Relations (LR) Tracking System, which captures the time reported for Union activities.

Following the expiration of the previous 4-year agreement, the IRS and the NTEU entered into a new National Agreement on July 1, 2002. There were several provisions in the new Agreement that addressed the use and reporting of official time for Union activities, including:

- Creation of the position of Official Time Coordinator (OTC) to resolve disagreements between managers and stewards/employees over the amount of official time requested to perform Union activities.
- Clarification of the activities for which official and bank time may be authorized.
- Procedures for approving time for stewards to conduct Union activities.
- Limits on the number and jurisdiction of Union stewards.
- A requirement that Union chapters develop periodic Official Time Utilization Plans to address such things as the amount of bank time and the use of duty time by full-time Union representatives.
- A requirement that every hour of official and bank time be recorded in the new Union time tracking system, through the SETR.

The number of hours recorded for Union activity for Fiscal Year (FY) 2002 were as follows:²

Official Time	446,227 Hours
Bank Time	286,989 Hours
Total	733,216 Hours

Source: IRS Strategic Human Resources Division and Treasury Inspector General for Tax Administration (TIGTA) Analysis.

We performed audit work at the Office of Strategic Human Resources in the IRS' National Headquarters in

² Does not include time for partnering activities and committee meetings for bargaining unit employees who were not Union stewards.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Washington, D.C., from August 2002 to April 2003. We interviewed Union representatives and managers and reviewed time reports for Union representatives in Denver, Colorado; Philadelphia, Pennsylvania; Washington, D.C.; and at the Atlanta, Georgia, and Philadelphia, Pennsylvania, Campuses.³ The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

The Cost of Union Activities Is Not Tracked

As with any operational or support activity, the cost of Union activity should be an important consideration when managing resources. With its system to record and control Union time, the IRS is able to focus on monitoring the time charged for Union activities. However, the cost of Union activity is not specifically tracked. Accordingly, the ability to control costs is limited to monitoring the hours charged.

There are a number of costs associated with the activity of Union representatives that include salary, benefits, travel expenses, office space, telephone use, and other related overhead expenses. The IRS has accounting systems in place that can accumulate the costs for salaries, travel, and office space. Nevertheless, there is no internal requirement to track and report Union costs, and the IRS does not use its systems for this purpose.

Salary costs

The NTEU/LR Tracking System contains salary information that could be used to calculate the cost of the time charged to Union activity. The IRS used this system to provide Senator Grassley with the salary cost for Union representational activities in February 2003. This feature, however, has not been used for internal tracking purposes. Based on the time in the NTEU/LR Tracking System, we estimate the salary and benefits cost of Union activities for FY 2002 as follows:

³ The campuses are the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the computing centers for analysis and posting to taxpayer accounts.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Official Time for Union Activity (Hours)	733,216
Salary and Benefits Cost per Hour	\$ 32.47
Total Cost	\$24 Million⁴

Source: TIGTA calculated based on information from the NTEU/LR Tracking System.

Travel expenses

Travel and per diem expenses for Union representatives attending arbitration hearings, grievance meetings, and other meetings outlined in the National Agreement are reported through the Travel Reimbursement and Accounting System (TRAS). When entering vouchers into the TRAS, travelers are required to identify the type of travel with a purpose code. Among the codes available is “U,” which signifies official Union travel. Union travel expenses are paid by appropriated funds through the TRAS and can be tracked through this system.

However, we identified requests for travel reimbursements submitted by Union representatives that appeared to be Union-related but were not coded as Union-related travel. On travel vouchers for the 3-month period we reviewed (July through September 2002), \$50,700 was coded “U” and \$46,000 was not coded “U” but contained a description that indicated the travel was Union-related. Without consistent use of this purpose code, travel costs associated with Union activity will be substantially understated. For FYs 1997 through 2001, the IRS reported Union travel costs of \$910,835, an average of \$182,000 annually. However, these costs may have been significantly understated due to miscoding.

Other costs

The National Agreement calls for each local Union chapter to be provided with an enclosed office space that is between 200 and 250 square feet.⁵ The space is provided for the

⁴ Rounded to the nearest million.

⁵ For perspective on the cost of office space, the average annual IRS occupancy cost was \$22.23 per square foot in FY 2002.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

exclusive use of the Union and is to be supplied with office furniture, telephone lines, a computer, and any necessary related equipment.

The Foundation Information for Real Property Management (FIRM) system is an automated tool used by the IRS to assist in real property management functions such as lease management, property inventory, and rent reconciliation. The FIRM could be used to calculate the cost of the office space for the NTEU's local chapters; however, additional information would need to be entered into the system to allow it to identify office space occupied by the local chapters. The IRS was not able to provide us information on how much space it has provided to each chapter.

There are also other overhead costs associated with time spent on Union activity. When costing out a person's time performing any duty, the Office of Management and Budget (OMB) recommends using an overhead factor of 12 percent.⁶ Moreover, there are additional costs related to office space for each Union representative over and above the cost of the office provided to each chapter that would be included if the IRS attempted to determine the full costs of Union activity.

Salary, travel, and office space costs could be tracked on IRS accounting systems; overhead rates for other related expenses could be used to provide accurate information on the costs of Union activity. However, without complete and accurate information on the direct costs of Union activity and appropriate overhead rates, the IRS cannot adequately monitor, control, and report these costs.

Recommendation

1. The Chief Financial Officer, in coordination with the business units and functions, should track Union costs related to salary, travel, and office space on IRS accounting systems and determine appropriate overhead rates. This would improve the ability to adequately review and control expenses.

⁶ OMB Circular No. A-76 Handbook (March 1996).

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Management's Response: The Chief Financial Officer and the Director, Workforce Relations Division, Strategic Human Resources, will work together to ensure that the cost of Union time is extracted from the LR/NTEU Tracking System, and will begin discussions with the Agency-Wide Shared Services (AWSS) function to determine the feasibility of using FIRM to cost Union office space. The Director, Workforce Relations Division, will coordinate with NTEU on the IRS' plans to link the "U" code in the TRAS with project cost accounting codes.

The Internal Revenue Service Provided Adequate Direction and Guidance on the New Procedures for Monitoring Union Time

The new National Agreement included many changes affecting the IRS and NTEU, including procedures on monitoring Union time. Consequently, it was important that IRS managers and employees knew of the changes, understood them, and had the capability to implement them.

We interviewed 50 front-line IRS managers and 30 NTEU representatives to determine if the new procedures were communicated, understood, and implemented. The managers and representatives we interviewed knew of the new procedures and were following them. The IRS provided considerable guidance and direction on the time reporting system and the controls and procedures established in the new National Agreement. Specifically:

- Strategic Human Resources developed a 3-day training course for managers covering the significant changes to the National Agreement, including those in Article 9 – Stewards and Official Time. Over 8,700 managers attended the training.
- The AWSS function distributed over 87,000 paper copies of the new National Agreement to IRS employees and published it on the IRS Intranet.
- In March 2002, the IRS broadcast an Interactive Video Teletraining program on the new National Agreement.
- The AWSS function issued memoranda to managers and OTCs on the procedures for recording and reporting Union activity.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

- The Office of Communications included an e-newsletter for IRS managers about reporting Union time in their Leaders' Alerts.
- Strategic Human Resources created a National Agreement Resource Center on the IRS Intranet. It provides links to related memoranda and letters of understanding, tutorials explaining the new program codes for Union activity, and a method to contact experts to find answers about Union time.

Considering the information available, the many initiatives to disseminate the information, and the favorable responses of the managers and Union representatives that we interviewed, it appears that the IRS provided adequate guidance and direction for implementing the new procedures for tracking the use of official time for Union activities.

Providing Appropriate Access Would Improve the Union Time Tracking System Controls

The new Union time tracking system accurately records the time reported by the individual Union representatives, but controls over the system can be improved. All of the Union time charges for the 30 Union representatives we reviewed were accurately recorded in the system for the 2 months selected. We also confirmed that the managers properly approved the time charged. Controls were established to minimize input errors, including the following:

- A restriction that permits only authorized Union representatives to charge time for Union activities.
- A requirement for the manager's approval for all time charged to NTEU activity by Union representatives who are not full-time Union representatives.
- A limit on the number of individuals who have access to the system.

However, we identified certain problems that reduce the effectiveness of the controls.

The Union time tracking system includes a "stewards table," which lists all authorized Union representatives. Only those Union representatives listed on the stewards table may

Despite Increased Accountability, Improved Control Is Needed Over Union Time

charge time to the Union program codes. The system has restrictions that prohibit employees not listed on the stewards table from charging time to Union activities. However, the stewards table was not regularly updated. Consequently, for 87 of the 109 chapters, the number of stewards listed in the stewards table exceeded the number authorized by 891. The stewards table included employees who were no longer active Union stewards. Consequently, the system would not prevent Union time from being entered for these employees who were no longer Union representatives but were still in work status.

Additionally, the tracking system reports were sometimes not sent to the NTEU representatives and the OTCs timely. The OTCs are the local management contact with the Union chapters who use the tracking system reports to monitor the use of bank time and the activities of full-time Union representatives, and to assist in developing the Official Time Utilization Plans with the Union chapter presidents.

Incorrect information in the stewards table and delays in sending reports to the OTCs limit the effectiveness of these controls, which are intended to ensure time charges are correct. Still, managers' review of employees' time reports help to reduce the potential for incorrect time charges. We did not identify any unauthorized employees that charged time to Union activity in our sample. However, the stewards table should be kept current and reports should be distributed to OTCs timely to enhance the effectiveness of these controls.

These problems occurred because of a computer programming error that prevented the removal of names from the stewards table for approximately 2 months and because access to the tracking system was limited to a single official, a LR specialist, in the Workforce Relations Division. Although the IRS planned to expand access to the system, this did not occur. Consequently, 1 official is responsible for performing maintenance of the tracking system for all 109 NTEU chapters, including routine adjustments of time, generation and distribution of system reports, and the addition/deletion of authorized Union stewards. The OTCs must rely on the LR specialist to

Despite Increased Accountability, Improved Control Is Needed Over Union Time

generate and distribute the reports, since they cannot access the system directly. Because of the scope of responsibilities and the number of contacts required, limiting all these duties to one official resulted in delays in updating the stewards table and distributing reports.

Recommendations

2. The Director, Workforce Relations Division, Strategic Human Resources, should allow the OTCs access to the NTEU/LR Tracking System as needed, with appropriate levels of permission.

Management's Response: The Director, Workforce Relations Division, Strategic Human Resources, will allow the OTCs access to the NTEU/LR Tracking System with appropriate levels of permission.

3. The Director, Workforce Relations Division, Strategic Human Resources, should request that OTCs periodically verify the accuracy of the stewards table in the NTEU/LR Tracking System.

Management's Response: The Director, Workforce Relations Division, will request that OTCs periodically verify the accuracy of the stewards table in the NTEU/LR Tracking System.

Certain Union Time Was Not Included in Summary Reports to the Department of the Treasury

For FY 2002, the IRS reported 729,988 hours⁷ of official time for Union activities.⁸ However, certain time in the NTEU/LR Tracking System was not reported. There was a problem with the program that the system used to generate a report summarizing Union time for the year, which caused an understatement of Union time. Specifically, the system reports excluded 3,228 hours charged by Union

⁷ This figure was comprised of 725,690 hours recorded by the NTEU/LR Tracking System, 2,180 reported for the Employee Satisfaction Survey, and 2,118 for Labor Recognition Week activities.

⁸ Beginning in FY 2002, the Office of Personnel Management required agencies to report annually on official time spent on Union activities. Because the Department of the Treasury was responsible for reporting for its bureaus, the IRS provided its report to the Department of the Treasury.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

representatives who separated from the IRS during the year. If the hours for stewards who left the IRS during the year were included, the IRS would have reported 733,216 hours of official time, the equivalent of 351 full-time positions, for Union activity during FY 2002.

In addition, time that was recorded for Union activities under a separate category for non-stewards was not reported. For employees who were not stewards but were representing the Union, there were 27,941 hours recorded for partnering activities and 11,812 hours recorded for committee meetings. Although the Office of Personnel Management (OPM) requirement for reporting was not specific in this regard, we believe it would be reasonable to also include the hours spent by bargaining unit employees (non-stewards) on partnering activities and committee meetings on behalf of the Union.

Recommendations

4. The Director, Workforce Relations Division, Strategic Human Resources, should ensure that the time for separated Union representatives is included in the NTEU/LR Tracking System's summary reports.

Management's Response: One of the two reports available in the NTEU/LR Tracking System has been reprogrammed to include separated Union representatives. The Director, Workforce Relations Division, Strategic Human Resources, will work with the AWSS function to ensure that the other report is also reprogrammed to include separated employee data.

5. The Director, Workforce Relations Division, Strategic Human Resources, should include the time charged by bargaining unit employees (non-stewards) on partnering committees and committee meetings on behalf of the Union in the reports to the OPM.

Management's Response: The Director, Workforce Relations Division, will ensure that hours charged by non-stewards are included in reports to the OPM.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

The Internal Revenue Service and the National Treasury Employees Union Disagree on the Number of Authorized Full-Time Union Representatives

Many locations have IRS employees who work full-time on Union activities. Typically, full-time Union representatives are Union chapter presidents and chief stewards, but some of the larger locations have additional full-time representatives. Nationwide, full-time Union representatives accounted for over 41 percent (301,825 out of 733,216 hours) of the total time charged to Union activities during FY 2002.

The National Agreement requires Union representatives to obtain their manager's approval every time they are released to perform Union activity. However, full-time Union representatives are exempt from this provision. Instead, full-time representatives submit justifications for full-time status and include projections of how they will spend their time in a chapter's Official Time Utilization Plan.⁹ OTCs are responsible for reviewing and approving the justifications and monitoring how these individuals actually charge their time. IRS management has identified approximately 25 Union representatives who, in their judgment, have inadequate justification to continue in full-time status. Management plans to remove these representatives from full-time status and require them to obtain managerial approval prior to release for Union activities.

After Strategic Human Resources and the OTC identify a Union representative who does not have adequate justification, and the representative does not voluntarily change from full-time status, they must inform the representative's manager. The IRS identified the 25 Union representatives in the first quarter of FY 2003 but delayed action on removing them from full-time status because many of the individuals involved were on leave during December. Management told us that they planned on taking action in early 2003. However, as of the end of March 2003, most of the identified employees remained

⁹ The National Agreement required Union chapters to complete periodic Official Time Utilization Plans, which describe such things as a chapter's allocated bank time, the number of stewards, training, travel, planned meetings, work schedules, and justification for full-time representatives.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

full-time Union representatives.¹⁰ Time charged by these representatives for Union activity may be more than needed.

Disagreement between management and the Union on the justification for some full-time representatives contributed to delays in completing some of the chapters' Official Time Utilization Plans. Utilization Plans were to be completed by August 1, 2002. However, as of January 2003, Utilization Plans had not been completed for 36 (33 percent) of the 109 NTEU chapters.

Recommendation

6. The Director, Workforce Relations Division, Strategic Human Resources, should establish time periods for the resolution of the disagreements over the full-time status of Union representatives and the submission of the remaining Official Time Utilization Plans, and monitor the resolution process to ensure the time periods are met.

Management's Response: The Director, Workforce Relations Division, Strategic Human Resources, cannot unilaterally establish due dates for the submission of plans. The National Parties have engaged in a process called "intervention," where each party sends a national representative to mediate and offer guidance on how to resolve disputes. If parties cannot agree, they may invoke Article 47 of the National Agreement, which is the impasse resolution process; or Article 9, Section 2J, which is the "umpire process." The Director, Workforce Relations Division, plans to continue the intervention process and to recommend that the OTCs follow the terms of Article 47 or Article 9, as appropriate.

Office of Audit Comment: We believe that management should also establish deadlines for a decision to invoke Article 47 or Article 9, Section 2J (the impasse resolution process) when there are delays in reaching

¹⁰ An IRS management official advised us that the IRS has initiated action to remove four employees from full-time Union steward status. Some others voluntarily changed their status, but the IRS did not have specific information needed to confirm the number.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

agreement on the Official Time Utilization Plans. The National Agreement's original deadline passed nearly 1 year ago, yet some chapters still do not have an agreement for a Plan.

Adjustments Should Be Made to the Criteria for Authorizing Union Stewards for Small Posts-of-Duty

The National Agreement authorizes each NTEU chapter to appoint up to one steward for small posts-of-duty¹¹ but does not establish a minimum number of bargaining unit employees necessary for authorizing a Union steward at small posts-of-duty. IRS management did not authorize additional Union stewards for small posts-of-duty that were within commuting distance of larger offices. The NTEU has challenged management on this issue. The NTEU contends that the National Agreement does not specify commuting distance as a criterion for authorized stewards. If the NTEU position were upheld in arbitration, an additional 381 stewards would be authorized for the small posts-of-duty that are within commuting distance of larger posts-of-duty.

Even with the IRS' interpretation of the National Agreement, the number of stewards authorized for many small posts-of-duty does not appear to be reasonable. The NTEU was authorized 141 Union stewards to represent 358 bargaining unit employees at offices with 5 or fewer bargaining unit employees. The authorizations for stewards based on small posts-of-duty do not have to be used for those posts-of-duty. Rather, it is a chapter-wide allocation; therefore, those stewards may be appointed anywhere within a chapter. The following table shows authorizations for the posts-of-duty with five or fewer bargaining unit employees:

¹¹ Posts-of-duty with less than 40 bargaining unit employees.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Table 1 – Steward Allocations for the Smallest Posts-of-Duty (with five or fewer employees)

Bargaining Unit Employees at Each Location	Number of Locations ¹²	Total	Authorized Stewards
1	51	51	51
2	20	40	20
3	32	96	32
4	19	76	19
5	19	95	19
Totals		358	141

Source: IRS Strategic Human Resources Division.

Moreover, the criteria as stated in the National Agreement allow small posts-of-duty to be double counted when determining the number of authorized Union stewards. The Agreement authorizes each chapter representing bargaining unit employees 1 Union steward for every 40 employees, plus 1 for each small post-of-duty. For example, 4 posts-of-duty with 10 employees each would be allocated a total of 5 Union stewards—1 for each post-of-duty and 1 for the combined total of 40 employees. As a result, small posts-of-duty were used as justification for 388 local stewards,¹³ and the employees were again counted as justification for approximately 111 additional stewards at the chapter level.¹⁴ Authorizing more chapter stewards than needed does not appear to provide a benefit and could reduce the efficiency and increase the cost of Union representation.

¹² Locations with more than one Union chapter are counted separately.

¹³ There were 388 steward authorizations for posts-of-duty with 40 or fewer bargaining unit employees for each chapter represented.

¹⁴ The number of bargaining unit employees assigned to the small posts-of-duty was 4,443. The National Agreement allows these employees to be counted again when computing chapter-wide allocations, based on 1 steward for every 40 bargaining unit employees ($4,443 / 40 = 111$ additional stewards).

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Recommendation

7. The Director, Workforce Relations Division, Strategic Human Resources, should establish more reasonable criteria for determining the number of NTEU stewards to assist in future negotiations and agreements with the NTEU.

Management's Response: The formula for computing the number of stewards was a negotiated agreement between the parties. Interpretation of the formula is the subject of a National Grievance under arbitration, so neither side will change its position until the case has been adjudicated. The next opportunity to negotiate a different formula is at the midterm "reopener."

Bank Hour Limitations Have Not Reduced the Number of Bank Hours Reported

Union representatives charge bank time for Union activities not conducted in the presence of management, such as preparing grievances or preparing for arbitration. The NTEU/LR Tracking System indicated that the number of hours charged to bank time during FY 2002 was much higher than the FYs 1999 and 2000 estimates the IRS provided to the Senate Finance Committee. The following table shows the comparison:

Table 2 – Union Bank Time Hours Comparison

Fiscal Year ¹⁵	Bank Time Hours	Bank Time Percentage of Total Union Time	Total Union Time
<i>Previous year IRS estimates provided to the Senate Finance Committee:</i>			
1999	165,780	23%	719,938
2000	155,013	23%	667,518
<i>Number of hours based on the new NTEU/LR Tracking System:</i>			
2002	286,989	39%	733,216

Source: IRS Strategic Human Resources Division.

The National Agreement limited the number of bank time hours available to the Union. The IRS reported to the Department of the Treasury that this limitation resulted in a 50,000-hour reduction in the maximum amount of annual

¹⁵ The IRS was not required to provide estimates for FY 2001.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

bank time. However, the limit appears to be only a guide to the number of bank time hours anticipated for the year. The bank time hours allotted may be exceeded with the agreement of the NTEU and IRS management. Moreover, the limit does not apply to chapter presidents—for the 60 chapters we reviewed, chapter presidents charged 16,500 hours of bank time during the 6-month period ending December 31, 2002.

The allocation for each chapter was included in the chapter's Official Time Utilization Plan. For the 6-month period ending December 31, 2002, 36 of the 60 chapters¹⁶ we reviewed did not use all allocated bank time hours. These chapters had a combined allocation of 34,843 bank time hours, but did not use approximately 7,200 of the hours. However, 24 (40 percent) of the 60 chapters exceeded their allocated bank time hours. These chapters had a combined allocation of 22,136 bank time hours and exceeded it by approximately 8,500 hours. Consequently, the 60 chapters that we reviewed exceeded their bank time hour allocations by a net of about 1,300 hours.

NTEU officials stated that because it was the first time bank time hours were being calculated under the new formula, it was likely that some chapters would have to revise the hours needed. Because the actual amount of bank time used during the second half of Calendar Year 2002 will serve as the basis for bank time allocations in the future, the chapter allocations for 2003 will also need to be adjusted. Management and Union officials believe that the actual number of bank time hours used provides a more reliable basis for determining future requirements than a generic formula.

Because bank time is for Union activities conducted away from the presence of management (such as preparing grievances or preparing for arbitration), it is difficult to establish effective controls to ensure that time is used

¹⁶ At the time of our request, only 60 utilization plans were complete and available for our review. Subsequent to our analysis, an additional 13 plans were completed, and 36 plans were still not completed as of January 2003.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

appropriately. The IRS approved increases to the number of bank time hours when the chapters requested them. The IRS reported to the OPM that the maximum amount of bank time hours would be reduced by 50,000 annually. This estimate was based, in part, on the new limit. However, there is no indication that this limitation reduced bank time hours. Because IRS management did not have a reliable method to accurately track bank time in prior years and has approved increases to the bank time limit since its NTEU/LR Tracking System was implemented, there is not an adequate basis for determining the effect of the limit.

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether there are adequate controls over the use of official time for National Treasury Employees Union (NTEU) activities. This audit was initiated at the request of Senator Charles Grassley, Chairman of the Senate Finance Committee.

To accomplish this objective, we performed the following audit steps:

- I. Determined if the new time system to track the use of official time for Union activities was adequately developed and deployed and had adequate controls to ensure accurate and complete reporting.
 - A. Interviewed the individuals in the Strategic Human Resources, Agency-Wide Shared Services (AWSS), and Modernization, Information Technology and Security Services functions who were responsible for developing the NTEU/Labor Relations (NTEU/LR) Tracking System.
 - B. Reviewed all available documents on the development of the NTEU/LR Tracking System.
 - C. We judgmentally selected a sample of a total of 30 Union representatives (from 5 Union chapters which were selected to represent a cross section of Internal Revenue Service (IRS) locations and functions) and compared their time reported on Employee Time Reports (Form 3081), for the months of May and June 2002, to reports generated from the NTEU/LR Tracking System.
 - D. Determined if the bank time¹ used was within the bank time allocations for the 60 Union chapters (out of 109) that had complete information at the time of our review.
 - E. Determined if the NTEU/LR Tracking System permitted only authorized Union representatives to charge time for Union activities.
 - F. Calculated the amount of time charged to Union activities by full-time Union representatives during Fiscal Year (FY) 2002.
 - G. Determined if the number of stewards allowed for each chapter was in agreement with the National Agreement.

¹ Duty hours that NTEU representatives can charge for Union activities not conducted in the presence of management, such as preparing grievances or preparing for arbitration.

**Despite Increased Accountability, Improved
Control Is Needed Over Union Time**

- H. Reviewed the Stewards/Chapter Hours Reports generated by the NTEU/LR Tracking System.
- I. Determined if managers were approving the time reported for Union activities by Union representatives.
- J. Determined the salary and benefit costs associated with Union activity for FY 2002.
- K. Determined the amount of Union-related travel expenses approved between July 2, 2002, and September 26, 2002.
- II. Determined if the standardized definitions and guidance for reporting the use of official time for Union activities were adequately developed, disseminated, and implemented. We also determined if managers were aware of the requirements for approving official time for Union activities, the amount of official time available, and which employees are authorized to represent the Union in their office.
 - A. Interviewed a judgmental sample of 50 front-line managers from sites that corresponded to the Union chapter sample. We used a judgmental sample (representing a cross section of IRS locations) in Steps II.A, II.B., and II.C. to evaluate how information was disseminated.
 - B. Interviewed a judgmental sample of 30 Union representatives from 5 Union chapters.
 - C. Interviewed a judgmental sample of 10 (out of 35) Official Time Coordinators.
 - D. Determined the number of managers who received training for the National Agreement from a database generated from the Administrative Corporate Education System.
 - E. Interviewed the individuals in the Workforce Relations Branch, AWSS, and Office of Workforce Relations, Strategic Human Resources, who were responsible for developing the instructions, definitions, and procedures for reporting the use of official time for Union activities.
 - F. Evaluated the methods used to disseminate and implement the changes made to the reporting requirements on the use of official time for Union activities.
 - G. Reviewed the instructions, definitions, and procedures for the reporting of official time for Union activities.
- III. Determined if cost estimates associated with Union activities contained all related IRS costs such as overhead and employee benefits.
 - A. Interviewed personnel in the four Operating Divisions and the Office of the Chief Financial Officer to verify if all costs related to Union activity are actually compiled.
 - B. Reviewed the Budget Execution Reports and Budget Formulation instructions.

Major Contributors to This Report

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Despite Increased Accountability, Improved Control Is Needed Over Union Time

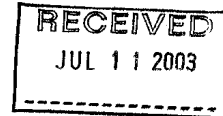
Appendix IV

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUL - 8 2003



MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR
TAX ADMINISTRATION

FROM:

Napoleon S. Avery
Acting Chief Human Capital Officer

SUBJECT

TIGTA Draft Audit Report, #200210034, *Despite Increased Accountability, Improved Control is Needed Over Union Time*, issued June 13, 2003

Both the IRS and NTEU agree that our recent National Agreement negotiations were perhaps the most difficult in our twenty-five year history. The provisions dealing with official time and union representation were among the most extensively revised in the negotiations and were among the issues in the agreement that went to impasse and required intensive mediation-arbitration by a third-party neutral. Those negotiations achieved limits on the number of stewards where none existed before, more detailed release and record-keeping procedures for union use of official time and a requirement for case-by-case approval (and hence, accountability) for the use of any official time, including "bank" time by union representatives.

The IRS engaged in comprehensive training and information-sharing efforts to ensure all managers, management officials and labor relations specialists understood the provisions of Article 9, and their roles in its implementation. I was pleased to see that your review confirms that the Service provided adequate guidance and direction on the implementation of Article 9.

IRS management agrees with your recommendations to improve the controls over the system for accounting for the union's use of official time and to increase management's focus on the costs of the time and services provided to the union. However, it is important to note that two of the recommendations, Recommendations 6 and 7 require the agreement of NTEU. Additionally, Recommendation 7 is dependent upon Article 9 being among those articles opened in the National Agreement mid-term reopener and if it is, upon the National Parties' agreement on different criteria.

If you have any questions, please contact Lucy Vargas, Director of Workforce Relations, at (202) 622-8755.

Attachment

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Attachment

Finding 1

The cost of union activities is not tracked.

Recommendation 1

The Chief Financial Officer, in coordination with the business units and functions, should track Union costs related to salary, travel, and office space on IRS accounting systems and determine appropriate overhead rates. This would improve the ability to adequately review and control expenses.

Corrective Action 1-1-1

The cost of union time can be calculated by extracting the salary figures in the LR/NTEU Tracking System and applying them to the hours charged in a period of time for which costs wish to be known.

Travel costs are compiled in TRAS when the purpose code "U" is used. In addition, the Service plans to link the U code with PCAS codes to identify union travel, which will force the traveler to use the U code.

The Foundation Information for Real Property Management (FIRM) system may be capable of calculating the cost of the office space for NTEU chapters.

Proposed Corrective Action Completion Date

June 1, 2004

Responsible Official

CFO and Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The CFO and the Director, Workforce Relations Division, will work together to periodically check the cost of the hours reported in the database.

The Director, Workforce Relations Division, will begin the necessary discussions with National NTEU to implement the use of the PCAS codes in TRAS.

The CFO and the Director, Workforce Relations Division, will begin discussions with AWSS (the owner of the FIRM system) to determine the feasibility of using that system to cost union office space.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Finding 3

Providing Appropriate Access Would Improve the Union Time Tracking System Controls.

Recommendation 2

The Director, Workforce Relations Division, Strategic Human Resources, should allow the OTCs access to the NTEU/LR Tracking System as needed, with appropriate levels of permission.

Corrective Action 2-2-1

The Director, Workforce Relations Division, Strategic Human Resources, will allow the OTCs access to the NTEU/LR Tracking System with appropriate levels of permission.

Proposed Corrective Action Completion Date

June 1, 2004 (to allow time for programming controls and training the OTCs).

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, will work with AWSS to add the OTCs as users of the database and to provide training in the use of the database.

Recommendation 3

The Director, Workforce Relations Division, Strategic Human Resources, should request that OTCs periodically verify the accuracy of the stewards table in the NTEU/LR Tracking System.

Corrective Action 3-3-1

The Director Workforce Relations Division, Strategic Human Resources, will request that OTCs periodically verify the accuracy of the stewards table in the NTEU/LR Tracking System.

Proposed Corrective Action Completion Date

June 1, 2004 to coincide with the OTCs access to the database.

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, will include this requirement in the training for the OTCs in the use of the database

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Finding 4

Certain union time was not included in summary reports to the Department of the Treasury.

Recommendation 4

The Director, Workforce Relations Division, Strategic Human Resources, should ensure that the time for separated Union representatives is included in the NTEU/LR Tracking System's summary reports.

Corrective Action 4-4-1

There are two reports available on the NTEU Reports Menu in the NTEU/LR Tracking System.

Following TIGTA's discovery of this problem, Menu Option 1, LR Steward Report, was reprogrammed to search the Historical Employee Information File in Employee Manager and bring that information forward so that separated employee data is included in that report.

The second report is at Menu Option 3, NTEU Chapter/Steward Report. That report option must be reprogrammed in the same manner as Menu Option 1 so that it includes separated employee data.

Proposed Corrective Action Completion Date

June 1, 2004, for Menu Option 3.

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, Strategic Human Resources, will work with AWSS to have Report Menu Option 3, NTEU Chapter/Steward Report reprogrammed in the same manner as Menu Option 1 so that it includes separated employee data.

Recommendation 5

The Director Workforce Relations Division, Strategic Human Resources, should include the time charged by bargaining unit employees (non-stewards) on partnering committees and committee meetings on behalf of the Union in reports to the OPM.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

Corrective Action 5-5-1

The Director, Workforce Relations Division, Strategic Human Resources, will include the time charged by bargaining unit employees (non-stewards) on partnering committees and committee meetings on behalf of the Union in reports to OPM.

Proposed Corrective Action Completion Date

Whenever OPM requests another report.

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, will review input data to any such reports to ensure these hours are included.

Finding 5

The Internal Revenue Service and the National Treasury Employees Union disagree on the number of authorized full-time union representatives.

Recommendation 6

The Director, Workforce Relations Division, SHR, should establish time periods for the resolution of the disagreements over the full time status of Union representatives and the submission of the remaining Official Time Utilization Plans, and monitor the resolution process to ensure the time periods are met.

Corrective Action 6-6-1

The National Agreement established a completion date of August 1, 2002. When it became clear that almost all plans would not be completed by that date, the National Parties eliminated the due date and did not establish a new one because without a plan, chapters operate solely under the provisions of Article 9.

The Director, Workforce Relations Division, cannot unilaterally establish due dates for the submission of plans. In fact, Article 9, Section 9, says that if the local parties cannot agree on a plan, they may invoke the procedures in Article 47, i.e. the impasse resolution process. Alternatively, as TIGTA points out, since the cause of most local parties' inability to reach agreement concerns justification of full-time stewards, the local parties can use the umpire process set forth in Section 2J of Article 9.

Despite Increased Accountability, Improved Control Is Needed Over Union Time

The National Parties have engaged in a process they call "intervention." One representative from National NTEU and one from the Workforce Relations Division act as mediators between the local parties to provide advice and guidance on how the local parties could resolve their disputes over their plans. The National Party representatives do not provide solutions to the problems.

Proposed Corrective Action Completion Date

None

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, will continue the intervention process and follow-up with the OTCs to ensure it led to a plan, to determine if additional intervention is necessary or to advise the OTCs to follow the terms of Article 47 or Article 9, as appropriate.

Finding 6

Adjustments should be made to the criteria for authorizing union stewards for small posts-of-duty.

Recommendation 7

The Director, Workforce Relations Division, SHR, should establish more reasonable criteria for determining the number of NTEU stewards to assist in future negotiations and agreements with the NTEU.

Corrective Action 7-7-1

The contractual formula is a means negotiated by the National Parties to establish an overall Servicewide number of stewards that was acceptable to both parties as reasonable for the size of the IRS bargaining unit.

The Service's interpretation of this contractual formula is the subject of a National Grievance for which arbitration has been invoked. Neither party will change its interpretation of the Agreement provision until the case has been adjudicated because that would compromise its position at litigation.

The next opportunity to negotiate a different formula is at the midterm reopener of the National Agreement, assuming Article 9 is reopened at that time. Management would like to begin bargaining on the reopener in August 2004, but that date is subject to negotiation with and agreement by NTEU. If bargaining begins in August, 2004 and if the negotiations go to impasse before the Federal Service Impasses Panel, it is unlikely that a final agreement will be reached before December, 2005. As part of the bargaining process, the National Parties select an effective date for the final agreement, which is at least two months following execution of the agreement.

**Despite Increased Accountability, Improved
Control Is Needed Over Union Time**

Proposed Corrective Action Completion Date

Two months following the effective date of the mid-term reopener agreement.

Responsible Official

Acting Chief Human Capital Officer

Corrective Action Monitoring Plan

The Director, Workforce Relations Division, will comply with the results of the aforementioned litigation, and if Article 9 is reopened at mid-term, will propose a discussion on the number of authorized stewards.